

REMARKS

Applicants submit this Amendment After Final in reply to the final Office Action mailed January 25, 2006.

Page 2 of the final Office Action requires the cancellation of nonelected claims. Accordingly, Applicants cancel withdrawn claims 110-115 without prejudice or disclaimer. Applicants reserve the right to pursue the subject matter of withdrawn claims 110-115 in another application, for example, an application claiming priority to this application.

Applicants also amend page 17 of the specification to provided updated information concerning disclosure incorporated by reference into this application, and amend page 22 of the specification to correct an inadvertent typographical error.

With the cancellation of withdrawn claims 110-115, claims 52-57, 60-63, 109, and 116-121 are now pending in this application. Claims 52 and 60 are the sole independent claims.

As an initial matter, Applicants respectfully request that the Examiner consider the Petition Under 37 C.F.R. § 1.48(b) filed November 8, 2005, and enter the Amendment to the Inventorship set forth in the Amendment filed November 8, 2005.

On page 2 of the final Office Action, the Amendment filed November 8, 2005 was objected to under 35 U.S.C. § 132(a) for allegedly introducing new matter into the disclosure. Specifically, the final Office Action asserts that “wherein the conduit remains open during both systole and diastole” was not described in the original specification. On pages 2-3 of the final Office Action, claims 52-57, 60-63, 109, and 116-121 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the

written description requirement. Specifically, the final Office Action alleges that the aspect “the conduit remains open during both systole and diastole” was not adequately described in the specification. Applicants respectfully disagree with the objection and rejection.

The aforementioned aspect of the claimed invention is fully supported by the originally-filed specification, drawings, and claims, at least at Figs. 6E-6H and its corresponding portion of the specification. For example, as-amended page 22, lines 17-18, recites “[t]he resiliency of the conduit 720 is such that it is open during systole (FIGURE 6E) but closes partially during diastole (FIGURE 6F).” Furthermore, page 22, lines 21-26 recites “[a]s in embodiments 6C-6D and 6E-6F, the resiliency of the soft portion is such that the conduit 740 acts as a one-way valve, with the conduit opening during systole and *partially* closing during diastole. Further, conduits (not shown) having an opening for blood flow, but no slits, may be used in which the portion of the conduit around the opening *partially* or completely collapses (closes) during diastole, but is at least partially open during systole.” (Emphasis added). One of ordinary skill in the art at the time of the invention would understand that “closes partially,” “partially closing,” and “partially collapses” during diastole means that the conduit remains “open” during diastole. Fig. 6F clearly supports this understanding, showing the conduit in an open state during diastole. Accordingly, for at least these reasons, Applicants respectfully request withdrawal of the Section 132(a) rejection and Section 112 rejection.

Applicants further submit that claims 53-57, 61-63, 109, and 116-121 depend directly or indirectly from one of independent claims 52 and 60, and are therefore

allowable for at least the same reasons that respective independent claims 52 and 60 are allowable.

Applicants respectfully request that this Amendment After Final be considered by the Examiner, placing claims 52-57, 60-63, 109, and 116-121 in condition for allowance. Applicants submit that there are no proposed amendments to the currently examined claims, only a cancellation of withdrawn claims 110-115, thus there are no new issues raised that necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were earlier claimed. Therefore, this Amendment After Final should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final Office Action by the Examiner presented some new arguments against Applicants' invention. It is respectfully submitted that the consideration of this Amendment After Final would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

In view of the foregoing remarks, Applicants therefore request the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The final Office Action contains characterizations of the claims with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the final Office Action.

In discussing the specification and claims in this Amendment After Final, it is to be understood that Applicants are in no way intending to limit the scope of the claims to

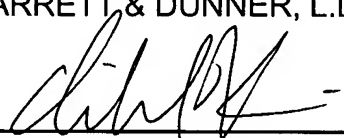
any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

If there is any fee due in connection with the filing of this Amendment After Final that is not otherwise accounted for, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: April 24, 2006

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